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C.M.A.No.3074 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

C.M.A.No.3074 of 2024

K.Prakash

...Appellant

Vs.

1. A.Suresh

2. M/s. The New India Assurance Company Ltd.,
(Motor Third Party Cell),
Bombay Mutual Building, 6th Floor,
No.232, N.S.C. Bose Road, Chennai – 600 001.

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, seeking to allow this Civil Miscellaneous appeal by enhancing the compensation award in the judgment and decree dated 20.06.2024 in MCOP.No.3847 of 2019 on the file of the Motor Accident Claims Tribunal, (In the IV Court of Small Causes, Chennai).

For Appellant : Mr.K.Balaji

For Respondents : Mr.T.Jayaraman, for R2
: Notice Dispensed with, for R1



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JUDGEMENT

Challenging the judgment and decree dated 20.06.2024 made in MCOP.No.3847 of 2019 on the file of the Motor Accident Claims Tribunal, (In the IV Court of Small Causes, Chennai), the claimant is before this Court.

2. Mr.T.Jayaraman, learned counsel takes notice on behalf of the 2nd respondent. In view of the consent expressed by the learned counsel on either side, this appeal is taken up for final disposal at the admission stage itself.

3. Since the 1st remained exparte before the tribunal, notice to the 1st respondent is dispensed with.

4. It is the case of the appellant/claimant that, on 19.06.2019 at about 16.05 hrs, when the petitioner was proceeding in the motorcycle bearing Regn.No.TN-85-J-5898 at left side of the Medavakkam High Road and Vadakkupattu Road junction, Kovilambakkam, Chennai, at that time, a Lorry



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bearing Reg. No.TN-19-D-9535 owned by the 1st respondent insured with the 2nd respondent driven by its driver came in a very rash and negligent manner and hit the above said motorcycle, due to which, the appellant sustained grievous injuries. Thereby, the appellant filed a claim petition seeking compensation of Rs.7,00,000/-. Before the tribunal, the claimant examined himself as P.W.1 and marked exhibits P.1 to P.13 and on the side of respondents two witnesses viz R.W.1 and R.W.2 were examined and Exhibits R1 to R4 were marked and Disability certificate was marked as court document Ex.C.1. After trial, the Tribunal, on appreciation of oral and documentary evidence though came to a conclusion that the accident had taken place solely due to the rash and negligent driving on the part of the driver of the 1st respondent vehicle, however, awarded a meagre compensation of Rs.1,97,780/-. Being not satisfied with the quantum of compensation awarded by the Tribunal, the appellant/claimant has come up with this appeal seeking enhancement of compensation.

5. Learned counsel appearing for the appellant submitted that



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admittedly, the above said accident occurred solely due to the rash and negligent driving of the driver of the 1st respondent vehicle, due to which, the appellant sustained grievous injuries all over his body and the medical board assessed a permanent disability of 9%. Though the accident is of the year 2019, the tribunal had taken only a sum of Rs.7,000/- per percentage instead of Rs.8,000/-, which is not sustainable and the compensation awarded under the other heads are also on lower side and the same has to necessarily be enhanced. Accordingly, he prayed for appropriate orders.

6. Per contra, the learned counsel appearing for the 2nd respondent/ Insurance Company submitted that, by considering all the relevant documents, the Tribunal has rightly awarded the compensation, which does not require any enhancement. Accordingly, he prayed for dismissal of the appeal.

7. Heard the learned counsel on either side and perused the materials available on record.

8. The factum and manner of the accident is not disputed by the parties.



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Therefore, this Court is not entering into the said aspect. The major grievances of the Appellant/claimant is with regard to the quantum of compensation awarded by the Tribunal. It is claimed by the appellant that though the accident is of the year 2019, however, the Tribunal had taken had erroneously taken a sum of Rs.7,000/- per percentage of disability. In this regard, this Court perused Ex.C.1, which is the disability certificate issued by the Medical Board and the same reveals that the appellant suffered disability of 9% and by erroneously adopting a sum of Rs.7,000/- per percentage of disability, the tribunal awarded a sum of Rs.63,000/-. However, as per the existing law at the relevant point of time, the Tribunal ought to have fixed a sum of Rs.8,000/- per percentage of disability. Hence, the amount under the head Disability stands enhanced to a sum of Rs.72,000/- ($9\% \times \text{Rs.}8,000/- = \text{Rs.}72,000/-$).

9. Insofar as the compensation awarded under other heads are concerned, the tribunal awarded a compensation of Rs.50,000/-, Rs.5,000/- and Rs.10,000/- under the heads Pain and suffering, Transportation and Extra Nourishment respectively, which are on the lower side and thereby, this Court



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is inclined to enhance the same to Rs.75,000/- Rs.10,000/- and Rs.10,000/- respectively. Further, a sum of Rs.5,000/- has been awarded under the head Loss of amenities which is not sustainable and the same is rejected.

10. In view of the above, the compensation awarded by the Tribunal is modified as under :-

Heads	Awarded by the Tribunal (Amount in Rs.)	Awarded by this Court (Amount in Rs.)
Disability	63,000/-	72,000/-
Pain and sufferings	50,000/-	75,000/-
Transportation	5,000/-	10,000/-
Extra Nourishment	5,000/-	10,000/-
Loss of earnings	20,000/-	20,000/-
Loss of amenities	5,000/-	-
Medical Expenses	39,780/-	39,780/-
Attender charges	5,000/-	5,000/-
Damages to clothing and articles	5,000/-	5,000/-
Total	1,97,780/-	2,36,780/-



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11. Accordingly, the appeal is partly allowed and the impugned award of the Tribunal is modified enhancing the compensation amount from **Rs.1,97,780/-** to **Rs.2,36,780/-**. The 2nd respondent/Insurance Company is directed to deposit the said amount to the credit of MCOP.No.3847 of 2019 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of four (4) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the said amount directly to the bank account of the Appellant through RTGS within a period of two (2) weeks thereafter, upon production of proof with regard to payment of Court fee on the enhanced compensation by the appellant. It is underscored that the appellant is not entitled to any interest for the default period, if any. There shall be no order as to costs in the present appeal.

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Speaking Order : Yes / No
Neutral Citation Case : Yes / No

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M.DHANDAPANI, J.

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To

1. The Motor Accident Claims Tribunal,
IV Small Causes Court, Chennai.
2. The Section Officer,
V.R. Section, High Court, Madras.

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